

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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EDWARD C. SHERMAN,

Plaintiff,

-v-

3:17-CV-702  
(DNH/DEP)

MATTHEW R. HOLECEK, Trooper; and JOHN  
CORNELL, Trooper,

Defendants.  
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APPEARANCES:

EDWARD C. SHERMAN  
Plaintiff pro se  
13-B-3651  
Sing Sing Correctional Facility  
354 Hunter Street  
Ossining, NY 10562

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Pro se plaintiff Edward C. Sherman brought this civil rights action pursuant to 42 U.S.C. § 1983 against two New York State Troopers. On August 31, 2017, the Honorable David E. Peebles, United States Magistrate Judge, advised by Report-Recommendation that plaintiff's complaint be dismissed without prejudice because it is duplicative of plaintiff's pending prior suit (3:16-CV-1342 BKS/DEP, filed November 9, 2016). In light of that recommendation, Magistrate Judge Peebles advised that plaintiff's motion to proceed without prepayment of fees be denied as moot. In a letter response to the Report-

Recommendation, plaintiff explained that he misunderstood the directions provided in his other lawsuit, and he did not intend to initiate a new civil action. He asked that he be permitted to proceed with his original action without including the County of Delaware as a defendant. Plaintiff is advised that his other lawsuit remains pending, and the County of Delaware was dismissed as a defendant in that case in accordance with the July 11, 2017 Order of the Honorable Brenda K. Sannes, United States District Judge. To be clear, the instant action will be dismissed and plaintiff may proceed in his initial action.

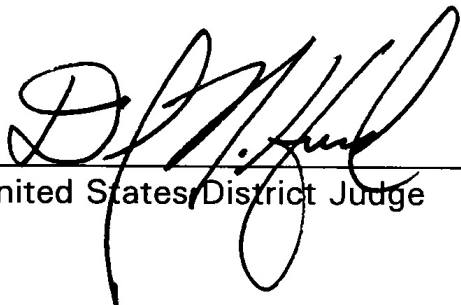
Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

Therefore, it is

ORDERED that

1. Plaintiff's complaint is DISMISSED without prejudice; and
2. The Clerk is directed to file judgment accordingly and close the file.

IT IS SO ORDERED.



United States District Judge

Dated: September 26, 2017  
Utica, New York.